BRIEFS ON INS., 3159. Natural consequences are such as ought to be expected. Probable consequences are those which are more likely to follow from the use of a given means than to fail to follow. Thus, reasons the court in the instant case, since chance determines what person or persons shall be killed in war, and since "of the millions who serve as soldiers, comparatively few are killed," the insured met death by accidental means, without his design, consent, or co-operation, as the result of a hazard incident to his occupation. As in another recent case, *Interstate Business Men's Acc. Ass'n. of Des Moines, Ia.* v. *Lester*, 257 Fed. 225, where the beneficiaries of a similar policy were allowed to recover for the death of an insured physician, who was shot and killed while performing his duty as an officer of the National Guard on emergency service during a strike, the court refused to write into the policy an exception to the effect that if the insured engaged in any military service the insurance should cease. Every person in the course of his life is necessarily exposed to varying degrees of hazard. Simply going into an environment where the hazard is greater than that experienced in one's daily employment cannot remove a chance death in such environment from the class of "deaths by accidental means," when the policy does not except such particular hazards. True, the decision seems to involve a liberal extension of the principles enunciated in former cases, yet considering the words of the policy and the hazard involved, it seems reasonable and justified.

LANDLORD AND TENANT—CONSTRUCTIVE EVICTION—NECESSITY FOR ABANDONMENT.—The defendant rented a theatre building from the plaintiff for three years. After a year's occupation the defendant vacated as a result of the plaintiff's notice to quit for failure to pay rent. In an action by the plaintiff to recover rent the defendant counter-claimed for damages, the basis for the counter-claim being an eviction caused by the landlord's using the basement of the building for the purpose of cutting and storing onions. *Held*, that the counter-claim could not be allowed, for the tenant continued to occupy the premises and pay rent after the obnoxious odors from the basement became apparent. *Toy* v. *Olinger*, (Wis., 1921), 181 N. W. 295.

A use of the adjoining premises by the landlord which materially interferes with the tenant's enjoyment of his own premises may result in a constructive eviction of the tenant. 2 TIFFANY, LANDLORD AND TENANT, 1279; *Grosvenor Hotel Company* v. *Hamilton*, [1894] 2 Q. B. 836. The test seems to be whether the use to which the adjoining premises are put would constitute a nuisance at common law. 2 TIFFANY, LANDLORD AND TENANT, 1281; *Sully* v. *Schmitt*, 147 N. Y. 248. Hence, if the landlord knowingly rents the adjoining premises to a person who operates a house of prostitution, the tenant may claim an eviction. *Dyett* v. *Pendleton*, 8 Cow. (N. Y.) 727. But to constitute an eviction the tenant must abandon the premises within a reasonable time after the acts complained of. *Commelin* v. *Theiss*, 31 Ala. 412; *Fox* v. *Murdock*, 58 Misc. (N. Y.), 207. The principal case did not decide whether the "odor with which nature has so bountifully endowed the onion," was a nuisance upon which an eviction might be predicated, but wisely eluded

this perplexing question by holding that there could be no eviction where the tenant thereafter continued in the occupation of the premises. *Beecher* v. *Duffield,* 97 Mich. 423; *Taylor* v. *Finnegan,* 189 Mass. 568.

LIMITATIONS, STATUTE OF—FRAUD AS REPLY TO PLEA OF THE STATUTE NOT AVAILABLE AT LAW.—In an action at law by the assignees of the pledgor against the pledgee, whose debt had been paid, to recover the purchase money paid to the pledgee by the purchaser of the pledged stock, the evidence showed that the plaintiff had several times requested the pledgee to turn over possession of the stock to him, but instead of informing the plaintiff of the sale, the pledgee stated that the stock was in his possession and he would turn it over as soon as he could find the certificates. When the plaintiff learned of the sale he brought this action, and the defendant pleaded the Statute of Limitations. Plaintiff replied that defendant was estopped to plead the Statute of Limitations by his fraudulent concealment of the accrual of the cause of action. *Held,* (five judges dissenting) the defendant could not be estopped by fraudulent concealment to plead the Statute of Limitations, in a court of law, but that an estoppel of this nature was available only in a court of equity as a ground for relief against the prosecution of the action at law. *Freeman* v. *Conover* (N. J., 1920) 112 Atl. 324.

The question in this case is whether or not, in an action at law, fraud is a proper matter of reply to a plea of the Statute of Limitations. The weight of authority is that fraud is a good reply and operates as an estoppel against the defendant pleading the statute. *Holman* v. *Omaha & C. B. Ry. & Bridge Co.,* 117 Ia. 268; *Missouri, etc. Ry.* v. *Pratt,* 73 Kan. 210; *Oklahoma Farm Mortgage Co.* v. *Jordan,* 168 Pac. 1029; *Baker-Mathews Mfg. Co.* v. *Grayling Lumber Co.,* (Ark.) 203 S. W. 1021; *City of Fort Worth* v. *Rosen,* (Tex.) 203 S. W. 84. *Contra,* see *Pietsch* v. *Milbrath,* 123 Wis. 647; *St. Joseph & G. I. Ry. Co.* v. *Elwood Grain Co.,* (Mo.) 203 S. W. 680; *Harper* v. *Harper,* 252 Fed. 39.

MINIMUM WAGE ACT—NOT INVALID BECAUSE NO PROVISION IS MADE FOR NOTICE TO EMPLOYERS.—Under an act making it unlawful to employ women in any industry at wages inadequate for maintenance, the Industrial Welfare Commission ordered the minimum wage in the public housekeeping industry to be raised to eighteen dollars per week. Plaintiffs, operators of large hotels, contended that the act was void in making no provision for notice to persons affected. *Held,* under its police power the legislature, through the Commission, can take away without notice whatever rights the employers have to employ women and minors, since they have no vested right to employ them. *Spokane Hotel Co.* v. *Younger,* (Wash., 1920), 194 Pac. 595.

Plaintiffs did not venture to question the ability of the Legislature under its police power to pass a minimum wage act; its constitutional right to do this seems to have been settled once for all by the case of *Stettler* v. *O'Hara,* 69 Ore. 519, which was sustained by the Federal Supreme Court in 243 U. S. 629. The contributions made by *Spokane Hotel Co.* v. *Younger* to the law of the subject seem simply to be that such acts do not need to make provision